

SENATE BILL 246

M4, M3

8lr0413

By: **Senators Frosh, Brochin, Conway, Dyson, Forehand, Garagiola, Gladden, King, Kramer, Lenett, Madaleno, Pinsky, Raskin, and Rosapepe**
Introduced and read first time: January 23, 2008
Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Agriculture – Fertilizer – Phosphorus Content Reduction**

3 FOR the purpose of prohibiting a certain fertilizer from being labeled in a certain
4 manner; requiring a certain fertilizer to be marked with certain words in a
5 certain manner; prohibiting a person from using, selling, manufacturing, or
6 distributing certain fertilizer after a certain date unless it is low phosphate
7 fertilizer; requiring certain manufacturers to reduce phosphorus levels resulting
8 from the application of its lawn care products by a certain amount and by a
9 certain date; requiring certain manufacturers to report certain phosphorus
10 levels annually to the Department of the Environment after a certain date;
11 authorizing the Department of the Environment to adopt certain regulations;
12 defining certain terms; and generally relating to fertilizer and phosphorus.

13 BY repealing and reenacting, with amendments,
14 Article – Agriculture
15 Section 6–201 and 6–210
16 Annotated Code of Maryland
17 (2007 Replacement Volume)

18 BY adding to
19 Article – Agriculture
20 Section 6–222
21 Annotated Code of Maryland
22 (2007 Replacement Volume)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
24 MARYLAND, That the Laws of Maryland read as follows:

25 **Article – Agriculture**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



1 6–201.

2 (a) In this subtitle the following words have the meanings indicated.

3 (b) A commercial fertilizer is “adulterated” if:

4 (1) Any poisonous, deleterious, or nonnutritive ingredient is added in
5 sufficient amount to render it injurious to the health of plants, humans, or animal life
6 or injurious to the environment;

7 (2) A valuable constituent is omitted or abstracted wholly or partially
8 from it or any less valuable substance is substituted for it; or

9 (3) Its composition or quality falls below or differs from that which it
10 is purported or is represented to contain by its labeling.

11 (c) “Brand” means the term, design, trademark, or other specific designation
12 under which a commercial fertilizer or soil conditioner is distributed in the State.

13 (d) “Bulk fertilizer” means any commercial fertilizer distributed in a
14 nonpackaged form.

15 (e) “Buyer’s mixture” means commercial fertilizer mixed on specific request
16 of a purchaser according to a formula furnished by him.

17 (f) “Commercial fertilizer” means any substance containing a recognized
18 plant nutrient used for its plant nutrient content and designed for use or claimed to
19 have value in promoting plant growth, except unmanipulated animal and vegetable
20 manure, marl, lime, wood ashes, and gypsum.

21 (g) “Custom–mix” means commercial fertilizer mixed on specific request of a
22 purchaser according to a formula furnished by him.

23 (h) “Distribute” means to import, manufacture, produce, compound, mix,
24 blend, barter, sell, offer for sale, consign, furnish, provide, or otherwise supply
25 commercial fertilizer or soil conditioners as part of a commercial enterprise.

26 (i) “Fertilizer material” means a commercial fertilizer containing a
27 recognized plant nutrient, which is used primarily for its plant nutrient content.

28 (j) “Grade” means the percentage of total nitrogen (N), available phosphoric
29 acid (H₃PO₄), and soluble potash (K₂O) stated in whole numbers in the same terms,
30 order, and percentages as in the “guaranteed analysis”. In the case of any “specialty
31 fertilizer” or “mixed–to–order fertilizer” guarantees may be stated in decimal fractions
32 of whole numbers.

33 (k) “Guaranteed analysis” means the minimum percentage of plant nutrient
34 claimed as follows:

1 (1) Total nitrogen (N), available phosphoric acid (H₃PO₄), soluble
2 potash (K₂O);

3 (2) For unacidulated mineral phosphatic materials and basic slag,
4 both total and available phosphoric acid and the degree of fineness;

5 (3) For bone, tankage, and other organic phosphatic materials, total
6 phosphoric acid;

7 (4) Additional plant nutrients, when claimed, shall be expressed in
8 elemental form; and

9 (5) Potential basicity or acidity may be expressed in terms of calcium
10 carbonate equivalent in multiples of 100 pounds per ton.

11 (1) "Gypsum" means any product that consists chiefly of calcium sulfate
12 intended for use for agricultural purposes.

13 (m) "Label" means the display of all written, printed, or graphic matter on the
14 immediate container or a statement accompanying a commercial fertilizer or soil
15 conditioner.

16 (n) "Labeling" means all written, printed, or graphic matter on or
17 accompanying any commercial fertilizer or soil conditioner, or the contents of any
18 advertisement, brochure, poster or television or radio announcement used in
19 promoting the sale of a commercial fertilizer or soil conditioner.

20 (o) "Lot" means a definite quantity of commercial fertilizer or soil
21 conditioner, identified by name, grade, or code designation as certified by the
22 Secretary.

23 **(P) "LOW PHOSPHORUS FERTILIZER" MEANS FERTILIZER CONTAINING**
24 **NOT MORE THAN 5% OF PHOSPHORUS.**

25 [(p)] (Q) A commercial fertilizer or soil conditioner is "misbranded", if:

26 (1) Its labeling is false or misleading in any particular;

27 (2) It is distributed under the name of another product;

28 (3) It is not labeled as required in § 6-210 of this subtitle and in rules
29 and regulations prescribed under this subtitle;

30 (4) A fertilizer purports to be or is represented as a commercial
31 fertilizer or if it purports to contain or is represented as containing a fertilizer
32 material, unless the fertilizer material conforms to any definition of identity,

1 prescribed by departmental rules and regulations which give due regard to commonly
2 accepted definitions, such as those issued by the Association of American Plant Food
3 Control Officials, Inc.; or

4 (5) Any word, statement, or other information, required to appear on
5 the label or labeling, is not placed on it prominently and conspicuously as compared
6 with other words, statements, designs, or devices in the labeling, and it is not in terms
7 that render it likely to be read and understood by the ordinary individual under
8 customary conditions of purchase and use.

9 [(q)] (R) “Mixed fertilizer” means a commercial fertilizer containing any
10 combination, blend, or mixture of fertilizer materials designed for use or claimed to
11 have value in promoting plant growth.

12 [(r)] (S) “Mixed-to-order” means commercial fertilizer mixed on a specific
13 request of a purchaser according to a formula furnished by him.

14 [(s)] (T) “Official sample” means any sample of fertilizer or soil conditioner
15 taken and designated as “official” by the Secretary.

16 [(t)] (U) “Percent” or “percentage” means percentage by weight.

17 [(u)] (V) “Registrant” means any person who registers a commercial
18 fertilizer or soil conditioner pursuant to the provisions of this subtitle.

19 [(v)] (W) (1) “Soil conditioner” means any substance or mixture of
20 substances intended for sale, offered for sale, or sold for:

21 (i) Manurial, soil enriching, or soil corrective purposes;

22 (ii) Promoting or stimulating the growth of plants;

23 (iii) Increasing the productivity of plants;

24 (iv) Improving the quality of crops; or

25 (v) Producing any chemical or physical change in the soil,
26 except a commercial fertilizer, unmanipulated animal and vegetable manures,
27 agricultural liming material, and gypsum.

28 (2) “Soil conditioner” includes but is not limited to materials such as
29 compost, peat, vermiculite, or perlite, that are incorporated into the soil.

30 [(w)] (X) “Specialty fertilizer” means a commercial fertilizer distributed
31 primarily for nonfarm use, such as home gardens, lawns, shrubbery, flowers, golf
32 courses, municipal parks, cemeteries, greenhouses, and nurseries, and may include
33 commercial fertilizers used for any research or experimental purpose.

1 [(x)] (Y) “Ton” means a net weight of two thousand pounds avoirdupois.

2 6–210.

3 (a) Each brand and grade of commercial fertilizer distributed in the State
4 shall be accompanied by a legible label bearing the following information:

5 (1) The net weight;

6 (2) The brand and grade under which the commercial fertilizer is
7 distributed;

8 (3) The guaranteed analysis giving the minimum percentage of every
9 plant nutrient claimed to be contained in the fertilizer; and

10 (4) Name and address of manufacturer.

11 (b) If distributed in bulk, a written or printed statement of the information
12 required by subsection (a) of this section shall accompany delivery and be supplied to
13 the purchaser at the time of delivery.

14 (c) Any fertilizer mixed or blended according to a formula furnished by a
15 purchaser shall be marked plainly or tagged with the words “buyer’s mixture”, or
16 “mixed-to-order”, or “custom-mix” together with a statement containing the following
17 information:

18 (1) Net weight;

19 (2) The guaranteed analysis giving the minimum percentage of every
20 plant nutrient claimed to be contained in the fertilizer; and

21 (3) Name and address of the manufacturer. In addition, the amounts
22 or kinds of materials used in the formulation may be shown.

23 (d) A specialty fertilizer shall be labeled to contain all information required
24 by subsection (a) of this section in a legible and conspicuous manner on at least one
25 side of the container. If it does not appear on the face or display side of the container,
26 it shall appear on the upper third of the side used.

27 **(E) A FERTILIZER WITH A PHOSPHORUS CONTENT GREATER THAN 5%:**

28 **(1) MAY NOT BE LABELED FOR USE ON ESTABLISHED LAWNS OR**
29 **GRASS; AND**

30 **(2) SHALL BE MARKED WITH THE WORDS “NOT FOR USE ON**
31 **ESTABLISHED LAWNS OR GRASS” IN AT LEAST A THREE-QUARTER INCH**

1 **FONT AND IN A LEGIBLE AND CONSPICUOUS MANNER ON THE FRONT SIDE OF**
2 **THE CONTAINER.**

3 [(e)] (F) Each brand of soil conditioner distributed in the State shall be
4 accompanied by a legible label bearing the following information:

5 (1) Net weight or other measure prescribed as satisfactory by the
6 Secretary;

7 (2) The brand under which the soil conditioner is distributed;

8 (3) An accurate statement of composition and purpose; and

9 (4) Name and address of the registrant.

10 **6-222.**

11 (A) **ON OR AFTER APRIL 1, 2010, A PERSON MAY NOT USE, SELL, OR**
12 **DISTRIBUTE FOR USE OR SALE WITHIN THE STATE ANY FERTILIZER INTENDED**
13 **FOR USE ON ESTABLISHED LAWNS OR GRASS UNLESS IT IS LOW PHOSPHORUS**
14 **FERTILIZER.**

15 (B) (1) **ON OR AFTER APRIL 1, 2010, A MANUFACTURER OF**
16 **FERTILIZER WHOSE PRODUCTS ARE SOLD IN THE STATE SHALL REDUCE BY 50%**
17 **FROM 2006 LEVELS THE AMOUNT OF PHOSPHORUS RESULTING FROM THE**
18 **APPLICATION OF ITS LAWN CARE PRODUCTS WITHIN THE STATE.**

19 (2) **BEGINNING IN 2011, A MANUFACTURER OF FERTILIZER**
20 **WHOSE PRODUCTS ARE SOLD IN THE STATE SHALL REPORT TO THE**
21 **DEPARTMENT OF THE ENVIRONMENT AT THE END OF EACH CALENDAR YEAR ON**
22 **THE POUNDS OF PHOSPHORUS IN ITS LAWN CARE PRODUCTS SOLD AT RETAIL**
23 **LOCATIONS IN THE STATE.**

24 (C) **THE DEPARTMENT OF THE ENVIRONMENT MAY ADOPT**
25 **REGULATIONS TO IMPLEMENT THIS SECTION.**

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 October 1, 2008.